

VZCZCXR07054
OO RUEHBC RUEHDE RUEHIHL RUEHKUK
DE RUEHC #3985/01 3262247
ZNY CCCCC ZZH
O 212240Z NOV 08
FM SECSTATE WASHDC
TO RUEHGB/AMEMBASSY BAGHDAD IMMEDIATE 2586
INFO IRAQ COLLECTIVE IMMEDIATE
RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 3935

C O N F I D E N T I A L SECTION 01 OF 02 STATE 123985

SIPDIS

E.O. 12958: DECL: 11/21/2018

TAGS: PREL

SUBJECT: DEMARCHE REQUEST: CONTINUATION OF UN ARRANGEMENTS (INCLUDING IMMUNITIES) FOR THE DEVELOPMENT FUND FOR IRAQ

Classified By: NEA DAS Richard Schmierer. Reason 1.4 (b) and (d).

¶1. (SBU) This is an action request. Drawing on points in paragraph 5, Embassy should discuss actions required to extend the UN arrangements for the Development Fund for Iraq (DFI) with the Government of Iraq (GOI) at the highest appropriate level and as soon as judged practicable. Embassy should draw on points in paragraph 5.

¶2. (C) The objectives of this demarche are to:

-- Confirm GOI understanding that it must take the lead in requesting and obtaining continued UN-mandated arrangements (including immunities) for the Development Fund for Iraq (DFI) and Iraq's hydrocarbon exports and proceeds from such exports after the expiration of UNSCR 1790;

-- Stress how little time remains before the arrangements expire on December 31, 2008.

-- Reiterate that continuation of UN-mandated protections for the DFI and Iraq's hydrocarbon exports and proceeds are only possible via a UN Security Council (UNSC) Chapter VII resolution, and will require continuation of other arrangements related to the DFI, including continued international monitoring; and

-- Urge the GOI to take action soon to increase its chance of success in obtaining an extension of DFI and hydrocarbon exports and proceeds protections.

¶3. (C) Background only: The extension of privileges and immunities for the DFI and Iraq's hydrocarbon exports and revenues is of key interest to the GOI and has been a subject of extensive discussion during the negotiations on the continued U.S. presence in Iraq. The United States has committed itself to assisting Iraq to obtain a UNSC resolution extending the arrangements now in place, including immunities, but cannot offer guarantees of success. Iraq will need to make a strong case to Council members on the merits, and adequately justify its request in a letter from the Prime Minister to the Council. Iraq must also take concrete steps to court the Council's good will. These include follow-through on its USD 25 million contribution to the UNAMI compound, resolving Oil for Food claims (see reftel), settling other Saddam-era claims, and meeting with Kuwait under the auspices of the UN Compensation Commission (UNCC) to discuss the remaining UNCC claims and payments. The GOI's recent pledge of USD 25 million for the construction of a new UNAMI compound in Baghdad is a good first step, but must be followed by swift delivery of the funds and additional funding from the GOI as construction begins. On Oil-for-Food claims, a P5-agreed letter giving "final notice" to the GOI of the need to resolve outstanding Oil-for-Food claims should shortly move to the President of the UNSC for action.

¶4. (C) While Iraq is likely to be focused on protecting the DFI and other assets from lawsuits, and the execution of

legal attachments, the entire package of arrangements related to the DFI and Iraq's hydrocarbon exports will need to be extended. The U.S. commitment to support the GOI in its efforts to secure continued protections includes the entirety of these arrangements, namely: 1) the requirement to deposit Iraqi oil revenues into the DFI account, except for the 5% of Iraq's oil revenues that is dedicated to satisfying outstanding UNCC claims; and, 2) the existing monitoring regime through the International Advisory and Monitoring Board.

¶ 5. (C/rel to Iraq) Embassy should draw on the following points in discussion with the GOI:

-- We understand that the GOI desires continued UN-mandated protections for the DFI and Iraq's hydrocarbon (oil and gas) exports and revenues from those exports, and that the GOI accepts that this must occur via a Chapter VII UNSC Resolution. The Security Council can only bind the international community to protect Iraq's assets under Chapter VII of the UN Charter.

-- As was agreed in the negotiations on the Security Agreement, the United States will support Iraq's request for a Chapter VII UNSCR to extend the existing arrangements for the DFI and Iraq's other assets beyond December 31, 2008.

STATE 00123985 002 OF 002

-- The GOI should understand that it must take the initiative in obtaining this resolution, that the time for accomplishing this in New York is rapidly running out, and that significant obstacles remain - obstacles that the GOI is best positioned to address.

-- In formulating its action plan and developing its request to the Security Council, Iraq must address the perception among some Council members that Iraq no longer merits special protection for its assets. Common negative arguments juxtapose the wealth of Iraqi natural resources with the generous award of 80 percent Paris Club terms on Iraqi sovereign debt. Skeptics also juxtapose Iraqi claims of success and normalization, including assertions that it no longer requires UNSC oversight over remaining foreign troops and wishes to end all Chapter VII resolutions, with its continuing desire for UNSC oversight and protection of Iraq's oil and revenues.

-- Considering these arguments, we assess that other states' support will be predicated on characterizing an extension as "temporary and transitional." Iraq will need to show how potential asset seizures could threaten reconstruction and thus stability.

-- Iraq will need to explain to the UNSC that it believes continued protections are necessary to facilitate the development of its fragile national economy and its reconstruction efforts, which are essential to maintaining security and stability. Iraq may also need to consider including in its justification its cause for concern about the vulnerability of its assets (e.g., its view on potential claims), and steps it is taking to resolve these concerns, so that the special arrangements for Iraq may end.

-- Support will also certainly rest on the GOI's ability to generate good will among UNSC members. This would include Iraq making a full and fair contribution to the costs of UNAMI's new Baghdad compound, (2) settling all outstanding Oil-for-Food claims, and (3) meeting Kuwait under the auspices of the UN Compensation Commission on the future of the remaining UNCC claims and payments.

-- While these arguments present a number of difficulties, our judgment is that addressing Russian concerns and interests will be key. The Russians have a veto and have already signaled that they do not support a Chapter VII

resolution for DFI only (that is, an Iraq resolution without an MNF mandate). Because of the high involvement of Russian firms in the Oil-for-Food program, resolving outstanding Oil-for-Food claims will likely be of great interest to the Russian government.

-- Assuming Iraq can obtain Russia's willing abstention, nine positive votes will still be required. Although by no means assured, our best estimate is that there is currently support among as many as six UNSC members: the United States, the UK, France, Belgium, Italy, and Croatia. Thus, Iraq will need to work to sway in its favor at least three of the remaining members, votes and avoid vetoes by Russia or China.

-- In order that we may coordinate our support, please keep us informed about your contacts with the Russians and other Council members. We urge you to take these actions as soon as possible, and we stand ready to assist you in these efforts.

RICE